IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 425 of 2005

Between:

Kamisetty Katam Swamy, S/o.Late Ammanna,
R/o.Molleru (V), Gangavaram (M),
E.G.Dist.

..... PETITIONER

AND

1 The Addl. Agent to the Govt., E.G.Dist. at Rampachodavaram.
2 The Special Deputy Collector (TW), Rampachodavaram, E.G.District.
3 The Mandal Revenue officer, Gangavaram (M), E.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in evicting the petitioner from the land to an extent of Ac.2.33 cents in sy.No.144/2 of Molleru (V), Gangavaram (M), E.G.dist. in pursuance of the order in L.T.R.P.No.312/97 passed by the 2nd respondent as illegal, arbitrary and unjust and consequently direct the respondents not to evict the petitioner from the above land pending disposal of the appeal preferred before the 1st respondent in the interest of justice.

Counsel for the Petitioner: MR.K.VENKATESH

Counsel for the Respondents No.1 to 3: GP FOR SOCIAL WELFARE

The Court, at the stage of admission, made the following:

Oral order:-

Apprehending the eviction from the land in an extent of 2.33 cents in survey No.144/2 of Molleru village, Gangavaram Mandal, East Godavari district, pursuant to the orders dated 11-12-2001 of the 2nd respondent – The Special Deputy Collector (TW), Rampachodavaram, East Godavari district in L.T.R.P.No. 312 of 1997 and also aggrieved by the inaction of the 1st respondent in considering his application for grant of interim orders in an appeal filed against the aforesaid orders of the 2nd respondent dated 11-12-2001, this writ petition is filed.

The 2nd respondent found the petitioner's possession of the property in question illegal, void and in violation of Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970. This conclusion is recorded in the order dated 11-12-2001 of the 2nd respondent, which order, according to the petitioner, was communicated to him on 24-12-2004. Aggrieved thereby, the petitioner preferred an appeal dated 30-12-2004 to the 1st respondent along with an application for grant of stay of the 2nd respondent's order dated 11-12-2001. Even before the 1st respondent could consider either the petitioner's appeal or the application for grant of interim relief, the respondents are out to dispossess the petitioner and to distribute the lands belonging to the petitioner, is the apprehension set out in the writ petition.

As the petitioner is already pursuing an appellate remedy to the 1st respondent, this court would not go into the merits of the petitioner's contention as regards the legitimacy of his possession and ownership of the land in question. The 1st respondent is directed to consider the petitioner's application for interim relief, if an appeal has been filed by the petitioner before the said respondent, as pleaded in the writ petition, expeditiously and in any event within a period of two weeks from today. Till the 1st respondent passes an order on the petitioner's application for grant

of interim relief in the appeal, the respondents are directed to maintain *status-quo* as on today in respect of the possession of Ac.2.33 cents in survey No. 144/2 of Molleru village, Gangavaram Mandal, East Godavari district. Nothing in this order shall be construed as an 'expression' by this court on the merits of the petitioner's claim to ownership and possession on the said property. The respondents will consider any application for interim relief or the appeal of the petitioner on its own merits and in accordance with law.

The writ petition is, accordingly, disposed of at the stage of admission.

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GODA RAGHURAM, J

Dt. 24-01-2005

Pvks/*

Nb:- Office to furnish c.c. tomorrow.

B/o pvks/*

To

1 The Addl. Agent to the Govt., E.G.Dist. at Rampachodavaram.
2 The Special Deputy Collector (TW), Rampachodavaram, E.G.District.
3 The Mandal Revenue officer, Gangavaram (M), E.G.Dist.

4.2CCs to the Government Pleader for Social Welfare, A.P. High Court Buildings, Hyderabad (OPUC).

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